

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1003-AIR-E **TCEQ ID:** RN101908994 **CASE NO.:** 33909
RESPONDENT NAME: Tesco Industries, L.P.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Tesco Industries, 1035 East Hacienda Street, Bellville, Austin County</p> <p>TYPE OF OPERATION: Furniture manufacturing plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on March 7, 2007, alleging that dust emissions were blowing onto the complainant's property. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received but the complainant has not expressed the desire to protest this action or speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 15, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8931; Mr. Steve Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. Norman Kiecke, President, Tesco Industries, L.P., 1035 East Hacienda Street, Bellville, Texas 77418 Mr. Aubrey Henley, C.F.O., Tesco Industries, L.P., 1035 East Hacienda Street, Bellville, Texas 77418 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: March 7, 2007</p> <p>Date of Investigation Relating to this Case: March 20, 2007</p> <p>Date of NOE Relating to this Case: April 16, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. One significant program violation was observed.</p> <p>AIR</p> <p>Failure to obtain authorization to operate. Specifically, during the investigation it was documented that Tesco was operating sources of air contaminants at its furniture manufacturing plant without authorization [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p>	<p>Total Assessed: \$4,000</p> <p>Total Deferred: \$800 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,200</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent submitted an administratively complete permit application on June 20, 2007.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a) Respond completely and adequately, as determined at the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>b) Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, and be notarized by a State of Texas Notary Public.</p>

Additional ID No(s): AH00430



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

DATES	Assigned	11-Jun-2007	Screening	22-Jun-2007	EPA Due	
	PCW	22-Jun-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Tesco Industries, L.P.		
Reg. Ent. Ref. No.	RN101908994		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33909	No. of Violations	1
Docket No.	2007-1003-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Rebecca Johnson
Multi-Media		EC's Team	5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No compliance history adjustment due to average performer classification.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

	0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$152	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,500		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$4,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,000
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DEFERRAL	20% Reduction	Adjustment	-\$800
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,200
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Screening Date 22-Jun-2007

Docket No. 2007-1003-AIR-E

PCW

Respondent Tesco Industries, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33909

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101908994

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No compliance history adjustment due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 22-Jun-2007 Respondent Tesco Industries, L.P. Case ID No. 33909 Reg. Ent. Reference No. RN101908994 Media [Statute] Air Enf. Coordinator Rebecca Johnson Violation Number <input type="text" value="1"/>	Docket No. 2007-1003-AIR-E <div style="text-align: right;"> PCW <small>Policy Revision 2 (September 2002) PCW Revision May 25, 2007</small> </div>																			
Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)																				
Violation Description Failed to obtain authorization to operate. Specifically, during a March 20, 2007 investigation it was documented that Tesco was operating sources of air contaminants at its furniture manufacturing plant without authorization.																				
Base Penalty <input type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2">Percent <input type="text" value="0%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </tbody> </table>		Major	Moderate	Minor		Release					Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
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Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
>> Programmatic Matrix																				
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	Major	Moderate	Minor																	
Falsification																				
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="10%"/>																
Matrix Notes	<div style="border: 1px solid black; padding: 5px; min-height: 40px;"> 100% of the rule requirement was not met. </div>																			
Adjustment <input type="text" value="\$9,000"/>																				
<input type="text" value="\$1,000"/>																				
Violation Events																				
<table style="width: 100%;"> <tr> <td style="width: 50%;"> Number of Violation Events <input type="text" value="4"/> </td> <td style="width: 50%;"> <input type="text" value="94"/> Number of violation days </td> </tr> </table>		Number of Violation Events <input type="text" value="4"/>	<input type="text" value="94"/> Number of violation days																	
Number of Violation Events <input type="text" value="4"/>	<input type="text" value="94"/> Number of violation days																			
mark only one with an x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input checked="" type="checkbox"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </tbody> </table>	daily	<input type="text"/>	monthly	<input checked="" type="checkbox"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>							
daily	<input type="text"/>																			
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quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	<input type="text"/>																			
Violation Base Penalty <input type="text" value="\$4,000"/>																				
<div style="border: 1px solid black; padding: 5px; min-height: 30px;"> Four monthly events are recommended from investigation date to screening date. </div>																				
Economic Benefit (EB) for this violation																				
Statutory Limit Test																				
Estimated EB Amount <input type="text" value="\$152"/>	Violation Final Penalty Total <input type="text" value="\$4,000"/>																			
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$4,000"/>																				

Economic Benefit Worksheet

Respondent Tesco Industries, L.P.

Case ID No. 33909

Reg. Ent. Reference No. RN101908994

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$2,500	20-Mar-2007	5-Jun-2008	1.2	\$152	n/a	\$152
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization. Date required based on the investigation date. Final date based on the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$152

Compliance History

Customer/Respondent/Owner-Operator:	CN603202177	Tesco Industries, L.P.	Classification: Average by Default	Rating: 3.01
Regulated Entity:	RN101908994	TESCO INDUSTRIES	Classification: Average by Default	Site Rating: 3.01
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	80111	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	AH00430	
Location:	1035 E HACIENDA ST, BELLVILLE, TX, 77418	Rating Date: 9/1/2006	Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	July 09, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 11, 2002 to June 11, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Rebecca Johnson	Phone:	(713) 422-8931	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- | | |
|------------------------|---|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
| | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. |
| | N/A |
| C. | Chronic excessive emissions events. |
| | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) |
| | 1 01/31/2007 (537687) |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) |
| | N/A |
| F. | Environmental audits. |
| | N/A |
| G. | Type of environmental management systems (EMSs). |
| | N/A |
| H. | Voluntary on-site compliance assessment dates. |
| | N/A |
| I. | Participation in a voluntary pollution reduction program. |
| | N/A |
| J. | Early compliance. |
| | N/A |
| Sites Outside of Texas | |
| | N/A |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TESCO INDUSTRIES, L.P.
RN101908994

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1003-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Tesco Industries, L.P. ("Tesco") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Tesco appear before the Commission and together stipulate that:

1. Tesco owns and operates a furniture manufacturing plant at 1035 East Hacienda Street in Bellville, Austin County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Tesco agree that the Commission has jurisdiction to enter this Agreed Order, and that Tesco is subject to the Commission's jurisdiction.
4. Tesco received notice of the violations alleged in Section II ("Allegations") on or about April 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Tesco of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Dollars (\$4,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Tesco has paid Three Thousand Two Hundred Dollars (\$3,200) of the administrative penalty and Eight Hundred Dollars (\$800) is deferred contingent upon Tesco's timely and satisfactory compliance with all

the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Tesco fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Tesco to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Tesco have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Tesco submitted an administratively complete permit application on June 20, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Tesco has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Tesco is alleged to have failed to obtain authorization to operate, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on March 20, 2007. Specifically, during the investigation it was documented that Tesco was operating sources of air contaminants at the Plant without authorization.

III. DENIALS

Tesco generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Tesco pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Tesco's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Tesco Industries, L.P., Docket No. 2007-1003-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Tesco shall undertake the following technical requirements:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Tesco. Tesco is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Tesco fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Tesco's failure to comply is not a violation of this Agreed Order. Tesco shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Tesco shall notify the Executive Director within seven days after Tesco becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Tesco shall be made in writing to the Executive Director. Extensions are not effective until Tesco receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Tesco in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Tesco, or three days after the date on which the Commission mails notice of the Order to Tesco, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallier
For the Executive Director

10/9/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Aubrey Henley
Signature

8/9/07
Date

Aubrey Henley
Name (Printed or typed)
Authorized Representative of
Tesco Industries, L.P.

C.F.O.
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

